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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SIX

In re Marriage of BRIAN and STEPHANIE ADLAWAN.	2d Civil No. B166139 (Super. Ct. No. 1044186) (Santa Barbara County)
BRIAN ADLAWAN, Appellant, v. STEPHANIE ADLAWAN, Respondent.	

Husband appeals the post judgment order of the trial court awarding wife a pro tanto interest in the residence they occupied during their marriage. He also disputes the award of the trial court reimbursing wife for capital improvements and the payment of spousal support and attorney's fees. We affirm the judgment.

Facts

Appellant Brian Adlawan (husband) and respondent Stephanie Adlawan (wife) were married for three years and eleven months. They have no children. During the marriage, the parties lived in a residence on Via Alicia in Santa Barbara.

Husband's father (father) had purchased the Via Alicia residence in 1994, three years before the parties were married. Title was taken in the names of husband and

father, as tenants in common. Husband purchased a 25-percent interest from father several months later. Father subsequently formed the Adlawan Family Partnership (partnership) for estate planning purposes. Husband and father conveyed their interests in the residence into the partnership. The partnership entered into a rental agreement with husband. He signed the agreement in his capacity as a tenant of Via Alicia and as general partner of the partnership.

Title to the residence was held by both husband and the partnership at various times during the marriage. When the parties were married the Via Alicia residence was held in the name of the partnership. During the marriage, the partnership transferred title to the residence to husband as his sole and separate property. Title remained in husband's name until after the parties' separation. After husband filed a petition for dissolution, he reconveyed the residence to the partnership.

Contentions at Trial

At trial, wife claimed an interest in the home by virtue of mortgage payments and capital improvements made from a joint bank account. Husband disagreed, alleging that the home is owned by the partnership to which he has paid rent since 1994. Husband asserted that the home improvements were not made from a joint account. He testified they were funded by a partnership equity line of credit and a \$10,000 contribution from father.

Wife moved to join the partnership as a party and the trial court granted her motion. Represented by its own counsel, the partnership denied that the community had an interest in the Via Alicia residence. It contended that wife was not entitled to reimbursement for capital improvements and alleged that the partnership was not a proper party to the proceeding. After taking the matter under submission, the trial court issued a statement of decision to which husband did not object. The court ruled that wife had acquired a pro tanto interest in the house and was entitled to reimbursement for capital improvements. She was also awarded spousal support and attorney's fees. The court noted that wife could recover from "the Partnership and/or Brian Adlawan." Husband appeals the rulings of the trial court. The partnership did not join in the appeal.

Statement of Decision

After trial, husband requested a statement of decision. Among other issues, he asked the court to explain its "findings concerning whether the majority of [wife's] income during the marriage was placed in her separate bank account as opposed to the community bank account and utilized for her separate purposes as opposed to applied [to] community expenses." Husband also inquired whether the community had acquired an interest in the Via Alicia residence and the basis for the awards of spousal support and attorney's fees.

In its statement of decision, the court concluded that the community had reduced the mortgage by \$8,568 during the marriage and expended \$37,021 in capital improvements. The court awarded wife \$44,963, which represented her pro tanto interest in the home and reimbursement for capital improvements.¹ Wife was awarded spousal support of \$750 per month for two and a half years² and \$10,000 in attorney's fees. The statement of decision did not indicate the evidence the trial court relied upon to determine the community's interest in the Via Alicia residence. It did not make findings establishing the existence of a joint bank account or the community's principal reduction of the loan. Nor did the court articulate the statutory factors in support of its awards of spousal support and attorney's fees under Family Code sections 2030 and 4320.

Husband argues on appeal that the community did not acquire an interest in the Via Alicia residence because it was owned by the partnership. He challenges the trial court's lack of findings concerning reimbursement to wife and the awards of spousal support and attorney's fees. Husband also contends the trial court erred in its mathematical calculations of the awards.

¹ The parties agree the award of \$44,963 was incorrectly calculated and should instead be \$45,589. It appears that the trial court arrived at wife's award by adding the amount by which the community reduced the mortgage principal (\$8,568) to the total amount expended by the community for capital improvements (\$37,021). However, the court described, in its statement of decision, a mathematical computation of wife's pro tanto interest in the home which totaled \$46,580. This figure, less \$1,617 for damage caused by wife, also yielded the sum of \$44,963.

² The trial court was under the mistaken belief that the parties were married for 4 years 11 months. The parties agree that the duration of the marriage was 3 years 11 months.

A party may request a statement of decision from the trial court, in which the court explains the factual and legal basis for its decision concerning disputed issues at trial. (Code Civ. Proc. § 632.)³ If the statement of decision does not resolve a controverted issue or contains an ambiguity, such a deficiency must be brought to the attention of the trial court before the entry of judgment. (§ 634.) It may also be brought to the court's attention by a motion to vacate, or a new trial motion. (§§ 634, 657, 663.) If the trial court is informed of any deficiency, the appellate court will not infer on appeal that the disputed issues were decided in favor of the prevailing party. (§ 634.) However, if a party fails to bring a claimed deficiency to the trial court's attention, he waives the right to complain of the alleged errors on appeal. (*In re Marriage of Arceneaux* (1990) 51 Cal.3d 1130, 1132.)

Appellant did not bring the omissions or lack of findings to the attention of the trial court, as required by section 634. Nor did he move for a new trial or make a motion to vacate the judgment. (§§ 657, 663.) Accordingly, husband has waived these issues on appeal. We may therefore imply findings to support the judgment. (*In re Marriage of Arceneaux, supra*, 51 Cal.3d at pp. 1133-1134.)

The judgment is affirmed. The parties are to bear their own costs on appeal.

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COFFEE, J.

We concur:

YEGAN, Acting P.J.

PERREN, J.

³ All further statutory references are to the Code of Civil Procedure.

J. William McLafferty, Judge

Superior Court County of Santa Barbara

Ricks & Associates, Gary R. Ricks and Brigham J. Ricks for Plaintiff and
Appellant.

Donald L. Briggs for Defendant and Respondent.